

REMARKS

MPEP 1308 states that an applicant wishing to have an application withdrawn from issue may, prior to paying the Issue Fee, "file a request for continued examination (RCE) under 37 CFR 1.17(e)". Applicants herein are filing an RCE under 37 CFR 1.17(e), with the appropriate fee. Applicants request that application 09/923,288 be withdrawn from issue. A Notice of Allowance and Fee(s) Due for the present application was mailed December 8, 2003. The Issue Fee has not been paid.

Applicants request that allowed claims 1-5, 10, 12-22, 34-42, 44, 68-93, 99, and 101-104 be cancelled. In addition, Applicants request entry of presently amended allowed claims 6, 8, and 11. As amended allowed claims 6, 8, and 11 include all of the limitations of any allowed base claim and allowed intervening claims. Upon entry of the foregoing amendment allowed claims 6, 7, 8, 11, 23-33, 45-67, 94-97, 100, 106-110, 113, and 119 will remain in the present application.

Applicants also include with this paper a copy of a previously filed Information Disclosure Statement, copies of publications and packaging labels as well a scaled drawing of a Rodenhouse Grip-Lok® screw. The Rodenhouse Grip-Lok® screw publications have a date of June 1999. In addition, the scaled drawing, produced by the Applicants, shows various dimensional relationships of the Rodenhouse Grip-Lok® screw. Applicants note that the Rodenhouse Grip-Lok® screw packaging is marked to reference United States Patent No. 4,959,938, which was considered by the Examiner. Applicants have cancelled allowed claims 1-5, 10, 12-22, 34-42, 44, 68-93, 99 and 101-104 in view of the Rodenhouse prior art and to eliminate duplication of claim coverage and has amended claims 6, 8 and 11 in the present application such that they are clearly patentably distinguishable from the Rodenhouse Grip-Lok® screw.

Proposed Amendment Requires No Additional Search or Examination

The proposed amendment to the allowed claims requires no additional search or examination since the Rodenhouse Grip-Lok® screw does not teach or suggest the presently claimed device. For example, the Rodenhouse Grip-Lok® screw does not teach or suggest all of the presently claimed elements including:

the head is provided with a top surface having an opening to receive a tool and a bottom surface having a v-shaped undercut having a conical surface in the undercut that connects the lip with a conical underside of the head;

the thread pattern of the lower region is symmetrical;

a gimlet tip having an included angle from about 20° to about 30°;

at least twice as many threads per unit length in the upper region as there are threads per unit length in the lower region;

a crown that extends around the perimeter of the head and extends beyond the lower surface of the head thereby defining an open volume between the lower edge of the crown and the shaft of the screw

a crown that extends around the perimeter of the head, wherein the crown extends beyond the lower surface of the head, forming a recessed region between the lower edge of the crown and the shaft of the screw; and/or

a bottom surface having a v-shaped undercut.

Claims Are Patentable

As discussed above, the Rodenhouse Grip-Lok® screw, which was designed and has been employed decidedly different application, does not teach or suggest all of the presently claimed elements. In addition, one of ordinary skill in the art would not have


found the presently claimed device obvious in light of the prior art or knowledge within the art to which the present device is directed.

Furthermore, the Declaration under 37 C.F.R. §1.32 of Commercial Success and Unexpected Results is fully applicable to the claims remaining in the application.

In summary, it is believed the application now stands in condition for allowance, and prompt favorable action thereon is earnestly solicited.

Respectfully submitted,

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Enclosures

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